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Government  
Publications

Highlights of

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# Enforcement Activities

under the

## Business Practices Act

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Ontario Ministry of  
Consumer and  
Commercial Relations

April 1978  
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Ministry of  
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Relations

416/963-0311

555 Yonge Street  
Toronto, Ontario M7A 2H6

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Since The Business Practices Act was introduced in 1974, Ontario has become an increasingly uncomfortable place for unethical operators. In the past year, 47 investigations were carried out resulting in more than 50 charges and several cease-and-desist orders.

Most businesses in Ontario are run fairly and responsibly. This legislation hinders none of these. But it does stop the small minority of business people who refuse to follow its code of conduct.

The ministry is continuing to take action against many of the same kinds of schemes outlined in the previous report -- home repairs, driveway pavers and dance studios. The clean-up in these fields is progressing steadily.

The Business Practices Act is an effective weapon for consumers against dishonest entrepreneurs. This report will not only provide information on enforcement activities, but also remind consumers of their rights and how to protect them.

Yours very truly,

  
Larry Grossman  
Minister.





## BACKGROUND

The Business Practices Act is one of the ministry's most effective vehicles for consumer protection. By prohibiting 22 specific types of false, misleading or deceptive representations, the Act gives the consumer a strong defense against dishonest business transactions. By providing a code of ethics to be followed by Ontario business people, the Act eliminates the need for costly and cumbersome licensing and registration.

The major thrust of the Act is to prevent dishonest or deceptive claims by business people. If the consumer is told that merchandise is made of new materials backed by a government agency or possesses magical powers, that's how it must be.

If the consumer is told that his or her car requires a new carburetor, the mechanic must be telling the truth. Or if a home repairman agrees to fix the consumer's roof in a certain way, that is how it must be done.

In addition, the Act helps protect those who have difficulty protecting themselves. For example, certain dance schools have preyed on the retarded, the aged and the physically disabled by using high-pressure sales tactics to lure them into signing long-term contracts. The Act provides for the prosecution of these schools when necessary and, in many cases, has enabled consumers to cancel contracts and have their money refunded.

Consumers who feel that they are victims of unfair practices may ask the company or the courts to rescind the agreement or ask the ministry of consumer and commercial relations to mediate.

Within six months of the transaction, the consumer may send a letter by registered mail or hand delivery, cancelling the agreement. The letter should contain the sentence: "I hereby exercise my right of rescission under Section 4 of The Business Practices Act."

If this step does not bring satisfaction, the consumer may take the matter to court. If the decision is favorable, the merchant may have to rescind the contract, make restitution or both.

Although government mediation has been the most common route, consumer minister Larry Grossman feels the increased publicity the Act has received will encourage more consumers to take action on their own behalf.

"Many people don't know about their rights to use the Act. In most cases calling up and saying 'I have the right to get my money back' or sending a letter rescinding the agreement makes court action unnecessary," Grossman said.

Consumers who are unable to resolve their complaints about unfair business practices may go to the local consumer services bureau for help. The bureaus provide detailed information on particular violations and how to deal with them. During the last nine months of 1977, 2,562 complaints were dealt with by the nine bureaus. The most frequent complaints involved the sale of personal articles, mail order goods, car repairs and accessories, appliances, furniture and home repairs.



If there is reason to believe the company is engaging in an unfair business practice, the executive director of the business practices division may take several steps. He may examine the company's books and documents, send a letter of warning, enter into an agreement of voluntary compliance with the company, issue a cease-and-desist order or prosecute.

In an agreement of voluntary compliance, the company agrees to stop the unfair business practices.

Alternatively, the executive director may issue a proposal to cease-and-desist. This gives the company 15 days to stop unfair practices. An agreement of voluntary compliance may be made at this point. An appeal by the company to the Commercial Registration Appeal Tribunal (CRAT) may be launched within that time. CRAT may confirm, modify or reject the proposal. The tribunal's decision may be appealed to the courts.

An immediate cease-and-desist order may also be issued if the executive director feels that it is necessary for the protection of the public or if previous steps have been ineffective. The order takes effect immediately. The company has the right of appeal to CRAT and the courts as with the proposal to cease-and-desist.

When convicted, corporations may be fined up to \$25,000 while individual directors may be fined up to \$2,000. Jail terms of up to one year may also be imposed.

If it is considered appropriate, the case may be handed over to the police who then may proceed with criminal charges. For example, a maintenance company was investigated by the business practices division after complaints were received about the firm. Consumers said they had paid for work that was never done. The company now faces five fraud charges.

Investigations conducted by this division may also lead to charges under other Acts. The Consumer Protection Act requires that all persons selling merchandise or services door-to-door be registered as itinerant sellers. Persons who falsely claim to be registered as itinerant sellers may be dealt with under both Acts.

The following cases were dealt with by the ministry since the first report on the Act was released. They do not include all the actions taken by the ministry. Nor do they include the actions consumers have initiated on their own under the Act.



## ASSURANCE OF VOLUNTARY COMPLIANCE

United Institute, April 28, 1977

Charles Ray Lewis agreed to stop claiming that services offered by his correspondence school, United Institute, were accredited by the Ontario ministry of education or any other government agency.

Mr. Lewis also agreed to cancel students' contracts and to obtain registration as an itinerant seller.

## CEASE-AND-DESIST ORDER

### Bassetti and Zucchi Co., Feb. 7

This company was using the name of a well-known company in Italy to sell household goods door-to-door in Toronto's Italian community.

The company was ordered to stop misleading consumers into believing it was connected with the Italian company and using high-pressure sales tactics.

The company has appealed to the Commercial Registration Appeal Tribunal. The hearing is scheduled for April 25.

## IMMEDIATE CEASE-AND-DESIST ORDERS

### Nellie Roberts, Windsor, Jan. 31, 1977

This woman was ordered to stop telling trainees and prospective employers that instructors and graduates at the school she operated had qualifications similar to those of registered nurses.

The school, Canadian Assistance Registered Employees, known as Domesticare, offered courses for "domestic aides" to work with senior citizens.

### Thermojet, Toronto, March 5, 1977

Donald Moffat was ordered to stop claiming that a furnace add-on device he sold, called Thermojet, would save consumers up to 25 per cent on heating bills.

Private laboratory tests found no measurable change in furnace efficiency or fuel savings. The order was upheld on appeal to CRAT.

Linguistic Schools of Canada and Viajes Servi-Tour,  
Toronto, Aug. 26, 1977

The school was told to stop telling students, who were mainly from Mexico, that it was approved by the Ontario ministry of education and the federal department of manpower and immigration.

The school was also ordered to stop claiming that facilities and services, which did not exist or did not live up to the advertisements, were available.

Fiesta Dance Club, Toronto, Nov. 9, 1977

This dance club was ordered to discontinue its practice of luring consumers into signing long-term dance lesson contracts through its social club.

The order stated that the club used intense emotional sales pressure, misrepresented students' dancing ability and urged them to agree to further lessons before their present contracts had been completed.

Three of the four principals named in the order--Allen Ossman, Hans Hoffman and Gino Lamanna--have also been charged with conspiracy to defraud and are scheduled to appear in Toronto provincial court March 28 for a preliminary hearing. A warrant for the arrest of the fourth principal Eric Jergens, alias Eric Erschen, has been issued.



R. J. Steacy and Company Limited, Nov. 16, 1977

The Ottawa company, which promoted Christmas dinner and evening out for senior citizens in Hamilton, St. Catharines and Ottawa, was charged in the order with misrepresenting itself as a charitable organization.

Telephone canvassers asked the public to make donations to send senior citizens to the dinner and businesses to take out advertising space in the company's news magazine to help defray the cost.

Steacy has been charged with fraud by the Carleton regional police and the Hamilton-Wentworth regional police.

Estec Ontario Limited, Nov. 28, 1977

A Toronto company selling a furnace add-on device, called Vapormid, was ordered to stop stating that the product would save up to 30 per cent on heating bills.

Private laboratory tests found no measurable change in furnace efficiency and fuel saving.

## PROSECUTIONS COMPLETED

### Fred Astaire Dance Studio, Hamilton, Dec. 6, 1977

This dance studio was convicted on two charges and fined \$5,000 each for a total of \$10,000.

The studio was also served with an immediate cease-and-desist order July 13, 1977 which alleged the studio used "psychological assaults" and "emotional manipulation" to lure consumers into signing long-term contracts for dance lessons.

Investigations revealed that some of the consumers who signed the costly contracts suffered from physical disabilities which would have made it impossible for them to attain any degree of dancing skill.

### Ronald Wood, Richmond Hill, Nov. 30, 1977

Wood, operator of a home improvement company, was fined \$500 or two months in jail for not completing work as contracted.

Restitution was also made.

### P.A. Hope Construction, St. Catharines, Oct. 3, 1977

This company was fined \$6,000 and ordered to make restitution of \$5,175 after its owner pretended that the company was registered with the Housing and Urban Development Association of Canada as required by the ministry of consumer and commercial relations' New Homes Warranties Plan Act.

Repairs to a consumer's basement had been very poorly done.

Gerald Fauman, Burlington, Jan. 5, 1977

Fauman was fined \$1,000 or three months in jail for falsely claiming to be a registered car salesman for a registered car dealer in Oakville.

He was also charged with failing to register as a car salesman and failing to maintain proper financial records under The Motor Vehicle Dealer's Act.

Quality Paving, Hamilton, Nov. 4, 1977

Company owner Wayne Barnes was convicted on three charges after he failed to complete work properly. He was fined \$500 or 30 days in jail consecutively on each charge.

He was also convicted on three counts under The Consumer Protection Act for failing to register as an itinerant seller and fined \$200 or 15 days consecutively on each charge.

George Stronach, Scarborough, Nov. 21, 1977

Stronach, owner of a home repair business, was fined \$300 or 30 days in jail.

During a kitchen renovation job, he had torn out cupboards and accepted money to purchase new ones. He never returned.



The following cases were pending when the first report was published. Those still before the courts are not included in this report.

Patrick Paulin, Windsor, May 9, 1977

Paulin, operator of a home repair company, was sentenced to three months consecutively on each of five charges.

Sentenced in 1976 on eight additional charges under the Act, Paulin had received advance money on contracts for which work was not done or only partially completed.

M and S Residential Home Improvements Limited, Toronto, Oct. 26, 1977

Four charges against the company were dismissed Oct. 26, 1977. Charges had arisen as a result of complaints of excessive prices and poor workmanship.

Pierre LeClerc and Claude Roy, Hornepayne, May 19, 1977

Six charges against this home improvement company were dismissed May 19, 1977. Charges had arisen as a result of complaints of poor workmanship and incomplete work.

William G. Pollock Dance Club

The Commercial Registration Appeal Tribunal upheld an immediate cease-and-desist order against this dance club and ordered that contracts worth thousands of dollars be rescinded on behalf of three consumers.

The order said that contracts were "weighted unfairly against consumers" and "unfair pressure" was applied to encourage consumers to sign long-term costly contracts for dance lessons.

## PROSECUTIONS PENDING

### Teak Furniture, Toronto and Mississauga

Thirty-six charges were laid against this company after 150 complaints were received from consumers who claimed furniture they had paid for or made down payments on had not been delivered.

### Century Paving Co., Toronto

John Marrone, owner of the company, was convicted for failing to adequately complete work as agreed in a contract. He was remanded out of custody for sentencing.

### Hard Pac Construction, Toronto and Newmarket

Burt Wickern, owner of this driveway paving firm, was charged after he failed to complete work as stipulated in contracts and did not return the consumers' deposits.

He was also charged under The Consumer Protection Act for failing to register as an itinerant seller.

In addition, he faces a fraud charge.

A warrant has been issued for his arrest.

### Harry Thompson, St. Catharines

Ten charges were laid against this Cottman Transmission franchisee Feb. 23 for allegedly failing to complete work as contracted.







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